

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

MARK H. and RIE H., Individually  
and as Guardians Ad Litem of  
MICHELLE H. and NATALIE H.,  
minors,

Plaintiffs,

vs.

PATRICIA HAMAMOTO, in her  
official capacity as Superintendent of  
the Hawaii Department of Education;  
DEPARTMENT OF EDUCATION,  
STATE OF HAWAII,

Defendants.

Civil No. CV 00-00282 MLR/LEK  
(Other Civil Action)

**DECLARATION OF STANLEY E.  
LEVIN**

DECLARATION OF STANLEY E. LEVIN

I, STANLEY E. LEVIN, declare as follows:

1. I am one of the named attorneys in the above captioned case.
2. I have been admitted into practice before this court since 1972. Since about 1980, I have been diagnosed with Parkinson's disease. Until about 1998, I was still able to perform all necessary tasks of a trial lawyer. For the past decade, the condition has caused some deterioration in my ability to speak clearly and intelligibly. The argument required in this case would tax my abilities to be clear in any presentation. I am therefore not available to handle this motion.

3. Michael Livingston is the lead counsel on this case and was planning on attending the hearing on September 11, 2008. I have spoken directly with Mr. Livingston, who is my partner in the law firm Davis Levin Livingston. He is presently in California and has provided me with the following information regarding his medical condition.

4. On March 28, 2008, Mr. Livingston sustained an open fracture of the distal tibia and fibula while skiing in British Columbia. The following day, March 29, 2008, he underwent surgery to repair the fracture using a titanium plate and eleven screws. During the month of April, Mr. Livingston experienced several complications that resulted in a second surgery. His recovery appeared to be on track during the summer months, but his condition deteriorated during an August trip to California to drop his son at college. On Tuesday, August 19, 2008, Mr. Livingston saw an orthopedic surgeon in Sacramento who took x-rays of the fracture site. I have attached as Exhibit "A" a copy of one of the images, showing that the screws above the fracture zone have broken and the plate has been displaced. Mr. Livingston is scheduled to have surgery to repair the broken hardware and reset his fractures on Tuesday, September 2, 2008, in San Francisco. He is scheduled to obtain a second opinion tomorrow, August 28, 2008, but there is little doubt that he will require prompt surgery. His surgeon has advised against air travel for two weeks following surgery because of the risk of blood clots.

Consequently, he probably will not return to Honolulu until the week of September 22, 2008 which would be the best case scenario. It would be much safer to schedule the hearing for the later part of October.

5. Attached hereto as Exhibit "B" is a true and correct copy of a letter from declarant to Mr. Ushiroda and Mr. Hara dated August 25, 2008 requesting their agreement to postpone the hearing on 1) Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint, Filed June 2, 2008, for Failure to Exhaust Administrative Remedies; and 2) Defendants' Motion to Preclude the Testimony of Barbara Bateman.

6. Attached hereto as Exhibit "C" is a true and correct copy of a letter from Mr. Ushiroda's office dated August 26, 2008 responding to declarant's August 25, 2008 letter agreeing to the continuance of the hearing.

I declare under penalty of perjury that the above is true and correct.

Executed on the 28th day of August 2008.

/S/ STANLEY E. LEVIN

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STANLEY E. LEVIN